IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

AMERICAN TOWERS LLC AND AMERICAN TOWER MANAGEMENT, LLC,	§	
	§	
Plaintiffs,	§	**NO: 2:16-cv-00424**
	§	
vs.	§	
	§	
MARY HELEN LOPEZ,	§	
	§	
Defendant.	§	

JOINT PRETRIAL REPORT

Plaintiffs American Towers LLC and American Tower Management, LLC ("Plaintiffs") and Defendant Mary Helen Lopez ("Defendant") file this Joint Pretrial Report pursuant to Rule 26, Fed. R. Civ. P. and the Court's Order for Conference (Doc. 14) and state:

PARTIES' JOINT RESPONSES

1. **State when the Rule 26 Conference of the parties was held and identify the counsel who attended for each party.** The conference was held via telephone on April 19, 2017. Jason Marlin attended for Plaintiffs. Joe Flores attended for Defendant.

2. **List any cases related to the present action that are pending in any state or federal court, with the style, case number, court, and a brief description of the case.** None.

3. **Briefly describe the pertinent facts and legal theories upon which the present action is based.** Plaintiffs contend that Defendant failed to timely pay amounts due under two separate lease agreements. Plaintiffs assert claims for breach of contract, and alternatively, for quantum meruit. Defendants contend that the Duval County tower constituted a breach of

contract, constructive eviction and loss of use. Defendant also contends that the material loss creates a damage model in excess of $50,000. Further, the Corpus Christi tower was modified and failed to make the tower higher. Defendant lost height in signal which cost in excess of $50,000 as well. This breach of contract has led to past, present and future damages.

4. **Specify the allegation of federal jurisdiction. Indicate whether the parties agree or disagree to the allegation. If the parties disagree, indicate the nature of the disagreement.** The Court has diversity jurisdiction over this case. The parties agree as to jurisdiction.

5. **List any additional parties that may be included, when they can be added, and which party desires to bring them into the litigation. In diversity jurisdiction cases, this item is intended to trigger the disclosure requirement of TEX. CIV. PRAC. & REM. CODE § 33.004(d) (effective September 1, 2011) and TEX. R. CIV. P. 194.2(b).** The parties do not anticipate any additional parties at this time.

6. **List any anticipated interventions.** None anticipated.

7. **If this is a class action, describe any issues regarding certification of the class.** Not applicable.

8. **State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.** The parties have not yet served their initial disclosures. The parties agree to serve their respective disclosures on or before May 4, 2017.

9. Describe the proposed discovery plan the parties have agreed upon, including:

A. **Responses to all the matters raised in Rule 26(f).** The parties agree to the Proposed Scheduling Order provided by the Court (Doc. 14).

B. **When and to whom Plaintiff(s) anticipate(s) sending interrogatories.** Plaintiffs anticipate serving interrogatories on Defendant within 30 days of the Pretrial Conference.

C. **When and to whom Defendant(s) anticipate(s) sending interrogatories.** Defendant anticipates sending interrogatories within 30 days.

D. **When and from whom Plaintiff(s) anticipate(s) taking oral depositions.** Plaintiffs anticipate deposing Mary Helen Lopez prior to September 2017.

E. **When and from whom Defendant(s) anticipate(s) taking oral depositions.** Defendant anticipates taking the deposition of the corporate representative of ATC and its project manager.

F. **When Plaintiff(s) (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.** August 1, 2017.

G. **List expert depositions Plaintiff(s) (or the party or parties with the burden of proof on an issue) anticipate(s) taking and their anticipated completion date.** September 1, 2017.

H. **List expert depositions the opposing party or parties anticipate(s) taking and their anticipated completion date.** October 2, 2017.

10. **If the parties do not agree on a part of the discovery plan, describe the separate views and proposals of each party.** The parties agree to the proposed scheduling order provided by the Court.

11. **Specify the discovery, beyond initial disclosures, that has been undertaken to date.** The parties have not undertaken any discovery yet.

12. **State the date the planned discovery can reasonably be completed.** The parties agree that discovery should conclude on October 2, 2017, pursuant to the Court's Proposed Scheduling Order.

13. **Describe the possibilities for a prompt settlement or resolution of the case that were discussed in the Rule 26 Conference, including the suitability of this case for mediation or other alternative dispute resolution. Include the anticipated date for the provision of a settlement demand by any party seeking affirmative relief.** The parties are actively engaged in settlement discussions, and have exchanged settlement offers. The parties continue to negotiate settlement options for both leases. The parties agree that this case is suitable for mediation. The parties will schedule a mediation in the event that they are unable to negotiate a settlement.

14. **If all parties consent, a Federal Magistrate Judge may hear both jury and non-jury trials. Indicate whether or not all parties consent to a trial before a Magistrate Judge.** The parties do not consent.

15. **State whether a jury demand has been made, and if so, whether it was made on time.** Neither party has demanded a jury. Defendants will seek leave to ask for a jury trial.

16. **Specify the combined total number of hours it will take both parties to present the evidence in this case.** The parties anticipate needing 10 – 15 hours to present both sides at trial.

17. **List pending motions that could be ruled on at the Initial Pretrial Conference.** None.

18. **List other pending motions.** There are no pending motions at this time.

19. **Indicate other matters peculiar to this case—including discovery—that deserve the special attention of the Court at the Initial Pretrial Conference.** None.

20. **Certify that all parties have filed Certificates of Interested Parties—as directed in the Order of Conference and Disclosure of Interested Parties—listing the date of filing for the originals and any amendments to the Certificates.** Plaintiffs have filed their Certificates of Interested Parties. Defendant plans to file his certificate in the near future (within 30 days).

21. List the names, bar numbers, addresses, telephone numbers, facsimile numbers, and electronic mail addresses of all counsel and pro se parties.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on all counsel of record via ECF on April 21, 2017.

/s/ Jason R. Marlin